

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:04CR248
vs.)	
)	ORDER
TIMOTHY WALTER BYERS,)	
)	
Defendant.)	

Defendant Timothy Walter Byers (Byers) appeared before the court on June 13, 2005, on a Petition for Offender Under Supervision (Report) (Filing No. 23). Byers was represented by Assistant Federal Public Defender Carlos A. Monzon and the United States was represented by Assistant U.S. Attorney Christian A. Martinez. Through his counsel, Byers waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Report alleges probable cause and that Byers should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

The government moved for detention. Through counsel, Byers declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Since it is Byers's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Byers has failed to carry his burden and that Byers should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 10:30 a.m. on June 30, 2005**. Defendant must be present in person.

2 Defendant Timothy Walter Byers is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 14th day of June, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge